

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF JACKSON

PEOPLE OF THE STATE OF MICHIGAN,

File No. 20-3171-FY

Plaintiff,

Hon. Thomas D. Wilson

v

PAUL EDWARD BELLAR,

Defendant.

Gregory J. Townsend, P35857
Sunita Doddamani, P67459
Assistant Attorneys General
Attorneys for People
3030 West Grand Blvd., Suite 10-200
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Jackson, Michigan 49203
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MOTION TO QUASH

NOW COMES the Defendant, Paul Edward Bellar, by and through his attorney, Andrew P. Kirkpatrick of Dungan & Kirkpatrick, P.L.L.C., and in support of motion, states as follows:

1. Currently Mr. Bellar is charged with providing material support for acts of terrorism, contrary to MCL 750.543k(1)(b), one count of membership in a gang attempting to commit material support for acts of terrorism, contrary to MCL 750.411u, and one count of possession of a firearm during the commission of a felony (felony-firearm), contrary to MCL 750.227b
2. A Preliminary Exam was held in this matter, which occurred over three days.

4. "The purpose of a preliminary examination is to determine whether there is probable cause to believe that a crime was committed and whether there is probable cause to believe that the defendant committed it." *People v Perkins*, 468 Mich 448, 452; 662 NW2d 727 (2003).

5. In this case, the People failed to meet their burden and the District Court abused its discretion when it bound this case over to Circuit Court.

6. For the reasons set forth in the attached Brief in Support of this Motion to Quash, Mr. Bellar believes this Honorable Court will agree and find that the District Court erred in granting the bind over.

WHEREFORE, based on the above and attached brief, Defendant respectfully requests that this Honorable Court dismiss the charges against him.

I DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

Dated: July 12, 2021

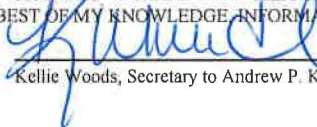


Andrew P. Kirkpatrick, P66842
Attorney for Defendant

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing was served upon Prosecuting Attorney by first class mail and email, on July 12, 2021 at the above address.

I HEREBY DECLARE THAT THE FOREGOING STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.



Kellie Woods, Secretary to Andrew P. Kirkpatrick

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**BRIEF IN SUPPORT
OF MOTION TO QUASH**

NOW COMES the Defendant, Paul Bellar, by and through his attorney, Andrew P. Kirkpatrick, and in support of his motion to quash, states as follows:

STATEMENT OF FACTS

Currently Mr. Bellar is charged with providing material support for acts of terrorism, contrary to MCL 750.543k(1)(b), one count of membership in a gang attempting to commit material support for acts of terrorism, contrary to MCL 750.411u, and one count of possession of a firearm during the commission of a felony (felony-firearm), contrary to MCL 750.227b.

In reviewing the 3 volumes of Preliminary Exam Transcripts, it is clear that Mr. Bellar was a part of the Wolverine Watchmen until the end of June, 2020, and ultimately left the State of Michigan the end of July, 2020. During the time that he was a member, he never violated any laws of the United States or the State of Michigan. This was clear from the testimony of the FBI agent. The real allegation here is that he provided “material support” to a terrorist group or act, was actively involved in a gang and made terrorists threats, in violation of Michigan state law. That is simply not true.

It is clear from the People’s case that the “terrorist” act was the planned abduction of Governor Whitmer. Prior to the plan to kidnap the Governor, there were no terrorist acts that occurred. There were several inappropriate comments made by Mr. Bellar, there were meetings that he attended and there was training that he attended in preparation of potential civil unrest in our country and the need to be prepared for it. He attended a rally at the Michigan State Capital. There was testimony that discussions took place about “storming” the capital. Yet, Mr. Bellar walked through the front door peacefully, answered all Covid 19 questions, followed all entry protocol, allowed his temperature to be taken and was granted access. (PE Tr. Vol. 1 pg.225 lines 3-25 pg. 226 line 1) He was in possession of a firearm, but that is not illegal. In fact, it was clear from the testimony that nothing illegal happened at the Capital, ever, by Mr. Bellar.

There was never any training specific to “storm” the capital. There were never any specific plans put in place to “storm” the capital. There were never any diagrams drawn to “storm” the capital. There was never any attempt to ever “storm” the capital. There was never a threat to anyone associated with the capital that it would be “stormed”. In fact, nobody even knew that discussions had taken place except those involved in the discussions.

There was testimony that Mr. Bellar had made threats to harm law enforcement. Those alleged threats were in response to several incidents where law enforcement may have used excessive force. Mr. Bellar went to a protest in Detroit for Black Lives Matters. He was legally armed and allegedly made statements that he would get involved if the police used deadly force on the crowd. Again, no action was taken by Mr. Bellar. Again, this is not illegal. In fact, the testimony is clear that at every protest attended by Mr. Bellar, he was not arrested or accused of breaking any laws. (PE Tr. Vol. 1 pg.229 lines 2-17)

Mr. Bellar did attend training sessions. The People claim that Mr. Bellar was the leader of these training, specifically regarding medical and tactics. Mr. Bellar was not a medic in the army, he was a mechanic. (PE Tr. Vol. 3 pg.156) The only military training that Mr. Bellar has is attending Army boot camp and he never even made it through his entire basic training before he was medically discharged from the Army.

The informant agreed that he, not Mr. Bellar, was in charge of the ambush tactics. (PE Tr. Vol. 3 pg.165 lines 22-25, pg. 166 lines 1-5) and that Mr. Bellar learned his training tactics on "Youtube". The informant also testified to his military experience, private security experiences and other experiences that clearly shows he had significantly more training than Mr. Bellar. (PE Tr. Vol. 3 pg.155 lines 1-25, pg. 156 line 1-22)

There was discussions about how Mr. Bellar also supported this group by providing medical training. Medical training is the only training that Mr. Bellar provided in Wisconsin, which is only one of two trainings he did with Adam Fox. (PE Tr. Vol. 3 pg. 165 lines 22-25 pg. 166 line 1-5) However, Adam Fox hand selected his own medic, who was not even trained by Mr. Bellar. (PE Tr. Vol. 3 pg. 192 lines 13-25 pg.) In fact, the record is clear that it was Adam

Fox who picked the group he ultimately was using in Northern Michigan to plan the attack on the Governor, not Mr. Bellar. (PE Tr. Vol. 3 pg. 190 lines 2-16 pg) (PE Tr. Vol. 3 pg. 191 lines 13-25 pg. 192 line 1-25)

The true “plan” to kidnap the Governor did not start until the early part of August, 2020. (PE Tr. Vol. 3 pg. 197 lines 14-18) On August 4, 2020, Adam Fox began laying out his plan to kidnap the Governor. Adam Fox stated that he wanted to Rock and Roll in 6 months, the next field training will be for work and not play, the stated attack plan is not unrealistic, but the group is not currently prepared and needs to put work in to get prepared. (PE Tr. Vol. 3 pg. 193 lines 4-25 pg. 226 line 1) He further states that they are going to eat, sleep and shit preparations and to think/train about it everyday. (PE Tr. Vol. 3 pg. 193 lines 16-25) This was after Paul Bellar had left the State of Michigan and was no longer involved with the Watchmen or training. (PE Tr. Vol. 3 pg. 194 lines 1-3)

The record is clear that Mr. Bellar had a falling out with the Wolverine Watchmen at the end of June 2020. The record is also clear that Mr. Bellar left the State of Michigan the end of July 2020, long before the “idea” and statements about kidnaping the Governor, ever became a “plan” to kidnap the Governor. Mr. Bellar moved from Michigan at the end of July to live with his father in South Carolina. He was working at door dash, preparing to go back to school to learn how to be an EMT and get a job with a fire department. After the end of July 2020, he never returned to the State of Michigan until he was arrested and transported back here. He never took part in any training, planning, surveillance, preparation or involvement in the “plan” to kidnap the Governor. (PE Tr. Vol. 3 pg. 203 lines 15-25, pg. 204 lines 1-25 pg., pg. 205 lines 1-25, pg. 206 lines 1-25 and pg. 207 lines 1-23)

The People suggest that Mr. Bellar trained the group that ultimately planned to kidnap the Governor and that training materially supported them in their plan. Yet, the group that was involved in the plan included Adam Fox, a long time militia member with significant training, a former Navy SEAL, a former United States Marine, a combat trained and experienced Army veteran, a “master gunsmith”, and Eric Molliter, a trained Medic selected by Adam Fox. This begs the question, how did Mr. Bellar, an individual that did not even make it through his AIT portion of his basic training “materially support” these individuals? He didn’t.

Mr. Bellar was never involved in inviting Adam Fox to train with the Wolverine Watchmen, that was the FBI. There will be a separate motion filed regarding entrapment, and will be further discussed there. Mr. Bellar was not present during the either phone call with Adam Fox, when he was invited to join the Wolverine Watchmen for training. (PE Tr. Vol. 3 pg. 172 lines 1-25 pg. 173 lines 1-25, pg. 174 lines 1-8) Mr. Bellar only attended two trainings with Adam Fox, and never actually trained him. More importantly, he made it very clear to the informant, on more than one occasion, that Adam Fox was crazy. (PE Tr. Vol. 3 pg 178 lines 20-25 pg. 179 line 1) The record is also clear that but for Adam Fox coming to this group, these charges would have never been brought against Mr. Bellar.

Finally, Mr. Bellar never supported this group financially, with equipment, ammunition, or any other form of contribution. The only allegations is that he provided training in the area of tactics and medical. Which, as the Court can see from the transcripts, was not even used by the group hand selected by Adam Fox to kidnap the Governor, nor was his training in tactics and medical even used by Adam Fox’s group in their preparation.

STANDARD OF REVIEW

A district court's bindover decision is reviewed for an abuse of discretion. *Seewald*, 499 Mich. at 116, 879 N.W.2d 237. An abuse of discretion occurs when the district court's decision " 'falls outside the range of principled outcomes.' " *Id.*, quoting *Epps v. 4 Quarters Restoration LLC*, 498 Mich. 518, 528 (2015).

ARGUMENT

MCL 766.13 provides in relevant part:

If the magistrate determines at the conclusion of the preliminary examination that a felony has not been committed or that there is not probable cause for charging the defendant with committing a felony, the magistrate shall either discharge the defendant or reduce the charge to an offense that is not a felony.

At a preliminary examination, the prosecution must present evidence establishing that the defendant committed the charged offense, and the district court must find that probable cause exists to bind over a defendant for trial. *People v. Shami*, 501 Mich. 243, 250-251 (2018). To satisfy this burden, the prosecution must present evidence of each and every element of the charged offense, or enough evidence from which an element may be inferred. *People v. Seewald*, 499 Mich. 111, 116, (2016). Accordingly, to warrant a bind over, the prosecution must produce evidence that a crime was committed and that probable cause exists to believe that the charged defendant committed it.

Probable cause is established if the evidence would persuade a careful and reasonable person to believe in the defendant's guilt. *People v. Yost*, 468 Mich. 122, 126 (2003). Evidence supporting that the defendant perpetrated the crime may be circumstantial, but must nevertheless demonstrate reasonable grounds to suspect the defendant's personal guilt. *People v. Tower*, 215 Mich. App. 318, 320 (1996). The evidence considered must be legally admissible. *People v. Walker*, 385 Mich. 565, 575-576 (1971), overruled on other grounds by *People v. Hall*, 435 Mich. 599 (1990).

A Preliminary Examination should function to “weed out groundless or unsupported charges of grave offenses, and to relieve the accused of the degradation and the expense of a criminal trial and of the deprivation of his liberty if there is no probable cause for believing he is guilty of the crime.” *People v Duncan*, 388 Mich 489, 501 (1972) (overruled on other grounds), quoting 21 Am Jur 2d, Criminal Law, Sec. 443, pgs. 446-447.

The Michigan Supreme Court has suggested that a denial of bind over is appropriate where it appears the prosecution will not be able to convict the accused at trial. *People v Goecke*, 457 Mich 442, 468-469 (1998): “More important, for purposes of avoiding the temptation to overcharge, it does not dilute the prosecutor’s responsibility to be mindful that ‘[t]he preliminary examination should identify not simply those who are probably guilty but more precisely those who are probably convictable.’ MCR 6.107 (now 6.110), Commentary to the Proposed Rules of Criminal Procedure, 422A Mich 31 (1985).”

The Court of Appeals has also suggested that the probable cause standard required for a bindover following Preliminary Examination should also involve the issue of whether the case is likely to result in a conviction. *People v Cohen*, 294 Mich App 70, 75-76 (2011): “it has been stated both that the probable cause required for a bindover is ‘greater’ than that required for an arrest and that it imposes a different standard of proof....[T]he arrest standard looks only to the probability that the person committed the crime as established at the time of the arrest, while the preliminary hearing looks both to that probability at the time of the preliminary hearing and to the probability that the government will be able to establish guilt at trial. [LaFave & Israel, *Criminal Procedure* (2d ed., 1992), § 14.3, pp. 668–669 (citations omitted).].”

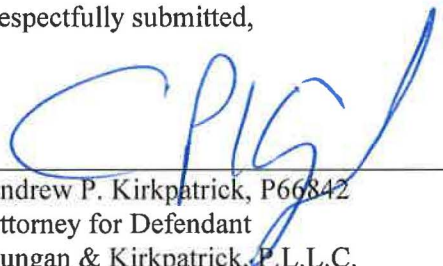
CONCLUSION

In reviewing the transcripts and the law above, all the charges against Mr. Bellar should be dismissed, as the bind over is defective. There is no evidence in this case to support the position of the People that Mr. Bellar materially supported Adam Fox and his group in Northern Michigan. If Mr. Bellar were to be placed

on trial for his current charges, it would be a miscarriage of justice. For all of the reasons stated above, Mr. Bellar respectfully requests that this Honorable Court grant his motion to quash.

Respectfully submitted,

Dated: July 12, 2021

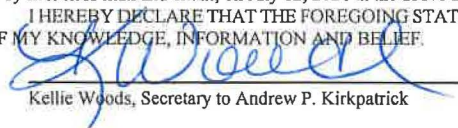


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